

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO. PC14HG-64336

_____)	
R.B.,)	<u>Administrative Action</u>
)	
Complainant,)	FINDING OF NO PROBABLE CAUSE
)	
v.)	
)	
New Jersey Transit Access Link,)	
)	
Respondent.)	
_____)	

On January 17, 2014, R.B. (Complainant), filed a verified complaint with the New Jersey Division on Civil Rights (DCR) alleging New Jersey Transit Access Link (Respondent) discriminated against him based on his disability in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Respondent denied the allegations of discrimination in their entirety. The DCR Director reviewed his agency's ensuing investigation and now finds as follows.

Complainant is a person with a disability. He has been diagnosed with Polio, which results in a mobility impairment and prevents him from walking long distances.

In accordance with regulations promulgated under the Americans With Disabilities Act (ADA), New Jersey Transit offers paratransit services to persons who are unable to use local bus services because of their disability. See 49 C.F.R. §37.121. NJ Transit's program is called *Access Link*, which is a curb-to-curb service that shadows local NJ Transit's fixed bus routes. Riders qualify if their disability, combined with their path of travel to and from the bus stop, prevents them from using local-fixed route buses and if their pick-up and drop-off points are within a 3/4 mile radius of NJ Transit regular bus routes. See 49 C.F.R. §37.131. Access Link is not available where there is no regular NJ Transit bus service available.

On or about October 10, 2013, Complainant attended Respondent's in-person Transportation Assessment. Based on Complainant's address at the time, i.e., [REDACTED], Princeton, Respondent determined that he was eligible to receive Access Link services. Respondent's Certification Specialist, Tammy Daniel, notified Complainant by way of letter dated October 13, 2013, of his eligibility.

However, in or around November 2013, Complainant told Access Link that he moved to [REDACTED], Princeton, New Jersey. In a letter dated November 21, 2013, Respondent's Certification Administrator, Kris Tucker, told Complainant that he was no longer eligible for Access Link services because he moved outside their service area. Tucker told Complainant that if he provided an address that was within their service area he could regain his eligibility.

Respondent encouraged Complainant to contact its customer service department to assist him in identifying locations within its service area that he could use for pick-up and drop-off and provide him with information regarding other transportation services he could use to transport him to a location within its service area. For instance, Respondent suggested to Complainant that he contact Somerset County Transportation, which offers free transportation to elderly and persons with disabilities, to see if it could assist him in getting to an Access Link bus stop so he could continue to use the service.¹

Complainant argues that no such arrangements are necessary because his new address is in the service area. However, that assertion does not appear to be accurate. The investigation found that the closest NJ Transit bus stop is Redding Terrace, which is 2.7 miles away from Complainant's address. The following stops are on NJ Transit's fixed bus route #605, which services Complainant's area:

¹ Complainant told the DCR investigator that the public transportation providers were conspiring to deny him service. He stated that the Mercer County T.R.A.D.E. (Transportation Resources to Aid the Disadvantaged and Elderly), which provides transportation to senior citizens or persons with disabilities, refused to transport him. Martin DeNero, Director of Mercer County T.R.A.D.E., told the DCR investigator that his agency explained to Complainant that it would be willing to transport him if was willing to alter his travel times.

1. Quakerbridge Mall.....	9 miles
2. Mercer Mall.....	9 miles
3. Nassau Park, Wal-Mart, West Windsor.....	8.5 miles
4. Princeton RR Station.....	8.5 miles
5. Witherspoon St. At Wiggins St., Princeton.....	4.4 miles
6. Princeton Shopping Center, Princeton.....	4 miles
7. Redding Terrace, Princeton.....	2.7 miles
8. Griggs Farm, Princeton.....	3.8 miles
9. Route 206 at Orchard Rd., Montgomery.....	3.1 miles

At the conclusion of an investigation, the Director is required to make a determination whether "probable cause exists to credit a complainant's allegations of the verified complaint." N.J.A.C. 13:4-10.2. For purposes of that determination, "probable cause" is defined as a "reasonable ground for suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person to believe" that the LAD was violated and that the matter should proceed to hearing. Ibid., Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div.1988), rev'd on other grounds, 120 N.J. 73 (1990), cert. den., 111 S.Ct. 799. If the Director determines that there is probable cause, then the matter will proceed to a hearing on the merits. N.J.A.C. 13:4-11.1(b). However, if the Director finds there is no probable cause, then that finding is deemed a final agency order subject to review by the Appellate Division. N.J.A.C. 13:4-10.2(e); R. 2:2-3(a)(2).

The LAD makes it illegal for places of public accommodation "directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privilege thereof, or to discriminate against any person in the furnishing therefore" on the basis of disability. N.J.S.A.10:-12(f). Here, Complainant was eligible to receive Access Link services when he resided at an address that was within a 3/4 mile radius of NJ Transit regular bus routes. But when he moved beyond the 3/4 mile radius, he was no longer eligible to be picked up in front of his home. Respondent told Complainant that if he could get to a location within its service area, he could continue to use the service. It appears that there may be other public transportation services that could transport him to a fixed bus route or pickup/dropoff location within a 3/4 mile radius of a fixed bus route, or otherwise meet his transportation needs.

The investigation found that Respondent provided service consistent with the ADA's paratransit regulations, and attempted to work with Complainant in an effort to provide him service within its designated service area. It appears that Complainant declined to use the suggested options in order to avail himself of Respondent's services.

WHEREFORE, it on this 3rd day of JUNE 2014 is hereby determined and found that no probable cause exists to credit Complainant's allegations of discrimination.



Craig Sashihara, Director
NJ DIVISION ON CIVIL RIGHTS